

**INDIVIDUAL RULES OF
JUDGE NICHOLAS G. GARAUFIS
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201**

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Motions Returnable: Set by the Court.

Unless otherwise ordered, matters before Judge Garaufis shall be conducted in accordance with the following rules:

1. ELECTRONIC CASE FILING (ECF)

A. All documents in civil actions filed after October 1, 2002 **MUST** be filed electronically. Questions regarding ECF filing or training should be directed to Terry Vaughn or Marilyn Glenn at (718) 260-2330/2610.

B. Hard copies of all papers filed electronically, including motions, letters and stipulations, must be provided to Chambers. All such papers must be clearly marked "Courtesy Copy", and indicate that the original was filed by ECF.

C. Parties filing voluminous or non-text exhibits shall only file hard copies.

D. Requests to be exempt from ECF requirements may be made before the Magistrate Judge assigned to the case.

2. COMMUNICATIONS WITH CHAMBERS

A. *Letters.* Except as provided below, communication with chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court.

B. *Telephone Calls.* Except as provided in Rule 2(D) below, telephone calls to chambers are permitted only in situations requiring immediate attention. In such situations only, call chambers at the number listed above.

C. *Faxes*. Faxes to chambers are permitted only if copies are also simultaneously faxed or delivered to all counsel. No document longer than the number of pages listed above may be faxed without prior authorization. Do not follow with hard copy.

D. *Docketing, Scheduling, and Calendar Matters*. For docketing, scheduling, and calendar matters, call the contact listed above.

E. *Request for Adjournments or Extensions of Time*. All requests for adjournments or extensions of time must state (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reason given by the adversary for refusing to consent. If the requested adjournment or extension affects no other scheduled dates, proposed Revised Scheduling order must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least 48 hours prior to the scheduled appearance.

3. CIVIL MOTIONS

A. *Pre-Motion Conferences in Civil Cases*.

i. For discovery motions, follow Local Civil Rules 6.4 and 37.3.

ii. For any dispositive motion, motion for a change of venue, or motion to amend a pleading pursuant to Fed. R. Civ. P. 15 (where leave of court is required), a pre-motion conference is required. The movant shall write to the Court requesting such conference, with a brief description of the grounds for such motion. Opposition to requests for a pre-motion conference will not be considered.

iii. No pre-motion conference shall be required for post-trial motions, *pro se* habeas corpus/prisoner petitions, social security appeals, bankruptcy appeals.

B. *Filing of Motion Papers*. A complete set of motion papers shall be filed only by the moving party as set forth below. The notice of motion, memorandum of law, and other supporting papers are to be served on the other parties along with a cover letter setting forth whom the movant represents and the papers being served. A copy of the cover letter **only** is to be mailed to Chambers and to the assigned magistrate judge at this time.

After the support, opposition, and reply papers have been exchanged among the

parties, only the original moving party shall file all motion papers with the Court, subject to the ECF requirements stated above. Such party is further obligated to furnish Chambers with a full set of courtesy copies of the motion papers together with a cover letter specifying each document in the package. A copy of the cover letter shall be sent to the assigned magistrate judge and to opposing counsel.

Subject to court approval, the parties are to set up their own briefing schedule. Approval may be given at the pre-motion conference or by subsequent letter. No party is to serve any motion papers prior to obtaining court approval for the schedule. No changes in the approved schedule may be made without court approval.

C. *Memoranda of Law*. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, not including appendices or attachments, and reply memoranda are limited to 10 pages, not including appendices or attachments. Memoranda of 10 pages or more shall contain a table of contents. All memoranda must have the date of service plainly visible on the front cover. No letter briefs shall be permitted.

D. *Oral Argument on Motions*. Parties may request oral argument by letter at the time their moving or opposing papers are filed. The court will determine whether to hear oral argument and, if so, will advise counsel of the argument date. Counsel so advised is responsible for informing all other parties.

4. CRIMINAL MOTIONS

A. *Pre-Motion Conferences in Criminal Cases*. Counsel shall advise the Court of any motions they want to file at a status conference scheduled by the Court. If no status conference has been scheduled, counsel shall request a pre-motion conference in writing and briefly state the grounds for such motion.

B. *Filing of Motion Papers*. Unless otherwise directed by the Court, follow Rule 3(B) above.

C. *Memoranda of Law*. Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, not including appendices or attachments, and reply memoranda are limited to 10 pages, not including appendices or attachments. Memoranda of 10 pages or more shall contain a table of contents. All memoranda must have the date of service plainly visible on the front cover. No letter briefs shall be permitted.

D. *Oral Argument on Motions*. Oral arguments on all criminal motions will be heard on a date set by the Court.

E. *Sentencing Motions.* Applications for a downward departure shall be made in writing at least 5 business days prior to the date of sentencing. The Government's response, if any, shall be made in writing at least 2 business days before the date of sentencing.

5. PRETRIAL PROCEDURES

A. *Joint Pretrial Orders in Civil Cases.* Unless otherwise ordered by the Court, within 60 days from the date for the completion of discovery in a civil case, the parties shall submit to the court for its approval a joint pretrial order, which shall include the following:

- i. The full caption of the action.
- ii. The names (including firm names), addresses, and telephone and fax numbers of trial counsel.
- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter, and including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
- v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.
- vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).
- vii. Any stipulations or statements of fact or law which have been agreed to by all parties.
- viii. A list of the names and addresses of all witnesses, including possible witnesses who will be called only for impeachment or rebuttal purposes and so designated, together with a brief statement of the expected testimony of each witness. Only listed witnesses will be permitted to testify

except when prompt notice has been given and good cause shown.

ix. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.

x. A schedule listing exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them. The schedule will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered only on rebuttal.

The parties will list and briefly describe the basis for any objections that they have to the admissibility of any exhibits to be offered by any other party. Parties are expected to resolve before trial all issues of authenticity, chain of custody and related grounds. Meritless objections based on these grounds may result in the imposition of sanctions.

Only exhibits listed will be received in evidence except for good cause shown.

B. Filings Prior to Trial in Civil Cases. Unless otherwise ordered by the Court, 15 days before the commencement of the trial, the parties shall file:

i. Proposed *voir dire* questions, jury instructions and verdict sheet. Parties shall submit a hard-copy of such materials and a 3.5" diskette or CD in WordPerfect format. Requests to charge should be limited to elements of the claims, the damages sought and defenses. General instructions will be prepared by the Court.

ii. A detailed statement regarding damages and other relief sought for each claim.

iii. In non-jury cases a statement of the elements of each claim or defense involving each party, together with a summary of the facts relied upon to establish each element.

iv. A pretrial memorandum in any case where a party believes such would be useful.

C. Motion In Limine. Motions addressing evidentiary or other issues, which should be resolved *in limine* must be filed no later than 20 days before commencement of trial. Responses, if any, shall be due 5 days later.

D. *Trial Exhibits.* All exhibits to be used at trial shall be pre-marked and exchanged with the other parties at least 10 days before trial. No later than the first day of trial all parties are to provide the Court with tabbed binders containing copies of all exhibits.

6. POST TRIAL PROCEDURES

A. In non-jury trials, parties shall file proposed findings of fact and conclusions of law no later than 10 days after the conclusion of trial. No responses to such submissions shall be permitted.